

Approved as Submitted: June 22, 2005

**CITY OF MORGAN HILL
JOINT SPECIAL CITY COUNCIL AND
SPECIAL PLANNING COMMISSION WORKSHOP
MINUTES – JUNE 8, 2005**

CALL TO ORDER

Mayor Kennedy and Planning Commission Chair Lyle called the special meeting to order at 7:00 p.m.

ROLL CALL ATTENDANCE

City Council

Present: Council Members: Carr, Grzan, Sellers, Tate and Mayor Kennedy

Planning Commission

Present: Planning Commissioners: Geno Acevedo, Robert Benich, Robert Escobar, Susan Koepp-Baker, Ralph Lyle, Joseph Mueller

Absent: Planning Commissioner: Charles Weston.

DECLARATION OF POSTING OF AGENDA

City Clerk Torrez certified that the special meeting agenda was duly noticed and posted in accordance with Government Code 54954.2.

SILENT INVOCATION

PLEDGE OF ALLEGIANCE

PUBLIC COMMENT

Mayor Kennedy opened the floor to public comment for items not appearing on this evening's agenda.

Dan Erhler, Executive Director, Morgan Hill Chamber of Commerce, announced two upcoming events: 1) Friday, June 10 – Leadership Joint Venture Silicon Valley Network. To be discussed will be Silicon Valley development opportunities and challenges. This is a significant meeting with information to be provided. 2) Friday, June 17 - Coyote Valley Specific Plan Progress Report to be presented by City of San Jose Mayor Ron Gonzalez and City of San Jose Deputy Planning Director at a Morgan Hill Chamber Business Forum. He indicated that this presentation will prove to be interesting and that it is hopeful that new information/clarification will be given. He requested that the Council consider attending these two meetings.

No further comments were offered.

City Council and Planning Commission Action

WORKSHOP:

1. **DISCUSSION OF PROPOSED CHANGES TO THE RESIDENTIAL DEVELOPMENT CONTROL SYSTEM EVALUATION CRITERIA RELATING TO THE DOWNTOWN AREA, AND OTHER POLICY MATTERS RELATED TO THE DOWNTOWN AREA**
- 1.1 Policy Direction on Recommended Scoring Changes
- 1.2 Policy Direction Regarding the Provision of BMR Units in the Downtown
- 1.3 Policy Direction Regarding Increasing the Development Density in the Downtown CC-R District
- 1.5 Overall Vision for the Downtown

Planning Manager Rowe addressed the changes to the evaluation criteria focused primarily on the downtown area. He said that changes have been proposed in the schools category, landscaping, and natural & environmental categories; changes that apply to the broader competition. With respect to the downtown, he said that in January 2005, the Council gave direction to staff and the Planning Commission to review the evaluation criteria for the downtown and to draft criteria that would create scoring opportunities for higher density projects in the downtown. He said that the Measure C subcommittee focused on creating these types of opportunities as well as drafting criteria that would encourage the kind of housing desired in the downtown. He addressed/summarized proposed changes to the standards and criteria categories (e.g., open space, livable communities, etc.). He stated that the Measure C subcommittee believes that the proposed changes will allow projects, previously unable to achieve a minimum passing score, to be able to achieve a passing and competitive score. A concern shared with the changes proposed is associated with the housing needs category. He said that it would be possible, with all the additional points that one could earn, for a project to choose not to provide a below market rate (BMR) unit. The Measure C subcommittee is recommending that there be a minimum passing score of 8 points under the housing needs category. This would require a project to, at a minimum, pay a standard housing mitigation fee. He requested Council direction on the proposed scoring changes. He stated that a Measure C subcommittee meeting is scheduled tomorrow morning at 7:30 a.m. for the purpose of responding to tonight's comments; returning to the Council on July 6 with changes in an ordinance format. He informed the Council that the Measure C subcommittee consists of Planning Commissioners Bob Escobar, Joe Mueller, and Ralph Lyle; John Marquez, local developer; Leslie Miles, representing the Downtown Association; and in consultation with Bonnie Tognazzini with the Morgan Hill Unified School District. He indicated that an earlier workshop was held, inviting design professionals who have expertise in building downtown housing, in order to provide the Measure C subcommittee advice on ways to encourage housing in the downtown area. He clarified that approximately 80% of the recommended changes were specifically tailored for the downtown.

Commissioner Escobar said that the proposed changes before the Council underscore how Measure C, in its broadest spectrum, was not tailored or structured to accommodate the framework of the Downtown Plan. He stated that the subcommittee was trying to retrofit the standards and criteria, the best way possible, in order to apply them to the downtown area.

Commissioner Lyle felt that the standards and criteria demonstrate flexibility in Measure C and that it can adapt to a different environment.

Mayor Pro Tempore Tate stated that the City is trying to encourage residential development in the downtown; making the units affordable based on high density and not necessarily from a BRM stand point. When he looks at the open space provisions, it requires that a developer provide open space. If a developer has to provide several items that cost money to attain points, he inquired whether this would result in the City achieving the type of housing desired.

Commissioner Mueller stated that the downtown will be a separate competition. Therefore, you cannot assume that downtown projects will score in the 185 point range similar to an open market project. Downtown residential projects will score lower because they will not agree to pay for items to attain points. However, it is felt that a downtown project needs to achieve a passing score.

Chairman Lyle said that there are essentially 22-30 points that are free or low cost points compared to what was authorized under the prior standards and criteria. There are another 11 opportunity points and other points that can be purchased. He said that as many as 58 points can be achieved by downtown project proponents that were not achievable in the past. He felt that this is a massive change. He said that 8-11 points can be achieved for proposing a high density project.

Commissioner Mueller indicated that the subcommittee proposes a different coverage element. The proposed changes offer points to a developer who agrees to pay into an open space fund. However, the open space fund is to be used in an area that would generate a “sense of space.”

Mayor Kennedy felt the City should be providing incentives and encouraging developers to build a vertical mixed use in the downtown.

Chairman Lyle said that a set aside would be the mechanism that would encourage vertical mixed use in the downtown. He noted that there are 80 downtown housing set asides in the first year and that a downtown developer would only compete against other downtown developers for downtown set asides.

Commissioner Acevedo said that as the Measure C standards and criteria are currently written, developers cannot meet a minimum passing score to build high density. He stated that the proposed changes will allow developers to meet a minimum passing score. He said that the ability to develop high density projects has not been a limiting factor; it has been the ability to meet the minimum passing score to be able to be awarded allocation. The proposed changes will allow a high density developer to meet a minimum passing score. Once developers are able to meet the minimum passing score, they can start to address the housing needs and other criteria.

Commissioner Mueller clarified that rather than changing the criteria to allow downtown developers to meet a minimum passing score, it is being proposed to change the points to measure items that would get the City the type of project it would like to see developed in the downtown. He said that the criteria has been set up such that it would focus within the framework of the Downtown Plan. With input from the consultants that participated in the Downtown Design Plan, comments were incorporated into the

criteria. He stated that a lot of the changes do not cost money. However, they do encourage the type of development the City would like to see in the downtown.

Mayor Kennedy stated that he likes and is supportive of several of the proposed changes (e.g., changes that relate to the downtown: public facilities, public art, parks & paths, mid block walkways, etc.). However, he needs to understand how the changes relate to the award of allotments.

Council Member Carr inquired whether the proposed changes are meeting the goals of the Downtown Plan.

Commissioner Mueller indicated that the Measure C subcommittee recommended that a separate fund be established. These funds would be used to create a sense of public space versus contributing monies to a separate park fund. He stated that a separate competition is being recommended for the downtown and that investments are to be made by developers into the downtown to help meet the goals of the Downtown Plan. The proposed changes would be an incentive for a project that wants to score well and is willing to spend some money in the downtown. If you have an aggressive competition, developers will have an incentive to provide amenities for the downtown, resulting in a direct benefit to the downtown and to respective projects.

Planning Manager Rowe clarified that some of the proposed amendments to the standards and criteria applies to downtown development and the open market competition. It was suggested that a separate criteria document be created for the downtown. He noted that a portion of the new criteria and points recommended apply only to projects located in the downtown. He said that there may be some confusion when you look at the recommended changes. A separate document could be created that contains the same information, but highlights categories applicable to downtown projects.

Commissioner Benich said that he tried to include a summary sheet in the ordinance adopted last year that shows how many points are available in each category. The summary sheet would allow a developer to review the summary sheet and determine how many points can be achieved. He felt that it is hard to follow the standards and criteria in terms of determining how one can achieve points.

Commissioner Mueller said that a narrative for the downtown area may need to be a separate document from that of a general market rate narrative.

Planning Manager Rowe noted that the proposed revisions to the standards and criteria clearly identify when points apply to projects in the downtown area. He said that there are points in certain categories that can be attained at a relatively low cost or no cost to downtown projects.

Mayor Kennedy stated his support of Commissioner Benich's suggestion of a point summary sheet or break out of the criteria for the downtown projects. He supported any document that would make the narrative easier to understand.

Council Member Grzan agreed that a summary point sheet would be helpful as well as separating the narrative into two separate documents. Separating out a narrative for downtown projects would make it easier for developers to identify the standards and criteria that would apply to them.

Council Member Sellers noted that the City has not had any development in the downtown for at least 15 years. Amendment to the standards and criteria will allow the development of higher density than is already seen in the downtown area. He did not believe that the City will get close to where it wants to be in the downtown if all it does is modify Measure C. He indicated that the Downtown Association unanimously voted to request that the City consider excluding the downtown area from Measure C. He stated that he was convinced that this is what the City needs to do, and that he would be asking the Council to consider placing this question on the ballot. He recommended that the City look at eliminating the development fees for a set period of time in the downtown area to encourage mixed use development. He did not believe that the City has provided incentives for development in the downtown. The changes being recommended may allow some development to occur, but not to the degree needed. He would support dedicating planning staff for the downtown to help the process through. He felt that the City needs to eliminate development fees so that the City can provide additional incentives. More importantly, he recommended the development of a smart growth overlay that has a separate set of standards and criteria at a grander scale. He stated his appreciation for all the work that has been done because it has maximized the value of Measure C, and has proven that there is no way the City can make Measure C work for the downtown.

Council Member Grzan said that one of the comments heard about the downtown is that it lacks vitality. An argument that he has heard is that by bringing in some vertical mix use into the downtown would add vitality to the downtown. He was not sure that by increasing the number of residents in the downtown it would result in an increase of commercial in the downtown. He would like to see figures on how many residential units would need to be built to increase commercial revenues. He did not know how one would quantify vitality of the downtown.

Council Member Mueller noted that the Downtown Plan is a framework for the downtown. What is needed is a specific vision for how the downtown is to work. In his discussions with individuals, it is felt that a sense of place is critical. He does not know if an additional 50,000-75,000 square feet of commercial area is needed, where it is to be constructed, and how it is to be implemented. He did not believe the City would find someone willing to lease space at a price needed to build the commercial-retail area. He noted that the rents in the downtown are low at this time because there is no critical mass. He felt that the City needs a critical mass of commercial and retail space, and needs to know how it is to fit; determining the vision. Then, individuals who lease the space will be willing to pay a higher dollar amount as it can be stated that everyone is coming to this sense of place. There will be enough space and people to support commercial-retail in the downtown. He felt that it is the lack of vision and the lack of a plan to implement the vision that has been the holdup for the downtown. He acknowledged that there are many individuals who want to relocate to low commercial rents. However, he did not believe that the low rents will justify new commercial and/or retail buildings. The only way the City would get new buildings is to generate enough sense of place. Then you build on top of these some residential units to give it a 24-hour feel. He felt that the downtown has to be made a destination for everyone.

Council Member Grzan expressed concern that individuals believe that a mixed use facility, by itself, would generate vitality. He felt that adding residential units may solve part of the problem. He stated that he needs to see numbers that identify the square footage needed, plans for the downtown, and the income to be generated. Once this information is provided, the City can discuss the overlay of residential units and how they would contribute to the downtown. He did not know whether the City would ever become a destination point. He noted that the City has invested into the downtown, over the past years, without a marginal return. He stated that he needs to see driving numbers that depict how the plan will work, followed by buy in from others that it will work.

Commissioner Escobar concurred with Commissioner Mueller's comments. He said that the comments made by the two consultant teams, at a workshop, indicate that the City cannot proceed in generalities. By the same token, whatever the City does will be somewhat of a risk because you cannot determine whether a commercial component will be the anchor for the rest of what is to take place in the downtown. He felt that the market will dictate what will take place in the downtown. He said that there needs to be a genuine blend of mixed uses with some flexibility to take place over a period of time. There needs to be something more than just a Downtown Plan. He noted that the consultants felt that planning needs to be relatively detailed. He felt that the City was a long way from this at this time. Even if the City has a developer submitting proposals and they achieve points, it does not go to the point of designing a complete downtown. It was his belief that it is difficult to fit the outcome into an existing process. It can be done, but the City will be focusing on a point structure with some general direction toward meeting the conceptual element of the Downtown Plan. He did not believe the City knows what the finished product will be or what it will look like.

Commissioner Mueller said that the City has a good opportunity to come up with a vision, a valued proposition and a goal that states the City wants the downtown to be a gathering place for Morgan Hill residents and their friends. He felt that this is a goal of the City and that the City needs to take this to the next step. In order to do it right, he felt the City needs to have a concrete plan for Second Street to Fourth Street, just east of Monterey Road to Depot Street. If the City is able to develop a concrete plan for these two blocks, creating a critical mass of commercial-retail with a residential and/or office component built above, the City can plant the seed that would allow the rest of the downtown to take place.

Mayor Pro Tempore Tate felt that the term "vision" is a high level outcome. Yet, Commissioner Mueller is narrowing it down to a smart growth overlay.

Commissioner Mueller clarified that a vision to him is not high level, but a physical realization of a mission. A vision is specific that states that in 3-4 years, certain things are to take place and what it is to look like. To be identified are the steps to be taken in order to complete the vision (e.g., review city fees, RDA incentives, streamlining the process, etc.). Once this occurs, the City can go to individuals who want to occupy the space and state that development will occur. The City can approach property owners and advise that this is the time to act and that they need to be a part of the vision.

Mayor Kennedy concurred with Commissioner Mueller's comments about the objectives. However, he concurred with Mayor Pro Tempore Tate that this is not a vision. He would call this a specific plan and not a vision. He felt that a specific plan is needed for the downtown and that a residential community needs to come before a destination.

Commissioner Mueller and Chairman Lyle felt that a destination is needed in order to draw residential.

Commissioner Mueller agreed that you could construct a residential community first and that commercial will follow. However, when you talk about having a total of 100,000 square feet in commercial-retail space in the downtown, he did not believe that you could develop enough residential to make the commercial-retail successful.

Chairman Lyle noted that the downtown is constrained space wise. He noted the City made the decision to build only three stories high. He did not believe that the downtown would accommodate many residential units. You may be able to develop a couple of hundred more units, but noted that you have 12,000 dwelling units outside the downtown area that needs to be drawn into the downtown.

Council Member Sellers noted that details exist for the downtown in the Downtown Plan; sound practices adopted by hundreds of other downtown communities, with smart growth overlays. The City just needs to apply them to the downtown area. He agreed that this is a detailed process, but that it can also be a fairly short process. He felt that everyone wants to go to a downtown where activities take place. He said that you want to slow traffic down, and felt that if you can place individuals on sidewalks, it will slow traffic down. He felt that Measure C is altering the market forces and that this was great for the entire community. However, it is the same market forces that controlled growth and stifled the City's ability to do what it wants in the downtown.

Chairman Lyle acknowledged that the City has not had the density that would encourage the vitality desired for the downtown and that it still does not. He said that this summer, the City may make a short term change and then will need to make a longer term change. He noted that the City could have encouraged development in the downtown, but that Councils did not implement the incentives to develop the downtown. It was not solely Measure C that hindered the vitality of the downtown; it was Measure E-P-C, City Councils and Planning Commissioners who implemented the policies that stated that there would be no give aways on fees or other concessions. If the Council wants to implement fee waivers and other policies, the Council can do so. However, the density is needed as well. He stated that in order for the downtown to be successful, it has to draw from the remainder of the community. He said that it would be difficult to build more than 50-60 units per year in the downtown. He noted that there are 12,000 residential units built already. If the downtown was a destination point, these individuals could be drawn to the downtown. Drawing residents from the 12,000 units can be done faster versus building 50 additional units per year.

Council Member Grzan stated that in the years he has lived in the community, he continues to hear that the downtown needs more vitality. He was not sure that by going to a vertical mixed use that it would solve the problem. He indicated that he has heard individuals state that the existing businesses in the downtown cannot be the same businesses in place today that would make the downtown a vital place.

Commissioner Mueller said that in talking with consultants, it was determined that you need to generate space (e.g., 100,000 square feet of commercial/retail space). Once you identify the square footage of space to be made available, the right individuals will develop the space over space. However, you cannot dictate the users of the building. He felt that the market would take care of this if a sense of a space is created and enough space is provided. This is one of the reasons it is important to get the vision in place. If you move forward with residential development too fast, without the vision in place, residential will be constructed where commercial-retail space is needed. He said that you need to have the right amount of residential and commercial-retail in order to make the downtown work. He said that you need to generate the vision. Once you do so, you can build residential around commercial or on top of it. Vertical mixed use is necessary so that it gives you the 24-hour feel. He stated that in order to create vitality in the downtown, you need individuals in the downtown for longer periods of time.

Mayor Kennedy stated that Rockridge is a wonderful place to visit. Rockridge was developed in a dense older residential neighborhood and was built with the market place that exists. He noted that Rockridge is a popular place and that it happens to be located adjacent to a BART station. He said that when Rockridge built the market, they built residential above. It was found that this did not work. Therefore, the residential units were converted into office space. He felt that the City will need to try some options, take risks, and move the process forward.

Mayor Pro Tempore Tate did not believe the City can dictate what goes where, but that the City has a general notion of how the downtown should be laid out. He did not agree with the recommendation that the downtown residential development be excluded from Measure C. Should individuals want to take the question about excluding downtown residential development from Measure C, it would take 1½ -2 years to place a measure on the ballot. He felt the Council needs to move forward with the proposed changes in the downtown. He indicated that he and Council Member Carr participated in the Measure C update process and incorporated the downtown into Measure C, as much as possible, knowing that the criteria would have to change. He stated that he has not been convinced that Measure C cannot accommodate the growth needed for the downtown. He noted that allocations have increased. He was not sure that the City would achieve a better rate if items were excluded. He stated that the City has a criteria that applies to downtown residential development and that there were a lot of benefits to the criteria. He recommended that the City try to make the downtown work with Measure C. If taken outside Measure C, he was not sure how it would work in terms of the affect on the rest of the community because residential development is affected by the formula.

Commissioner Acevedo agreed with Mayor Kennedy's observation about Rockridge. He said that whenever you have retail, restaurants and/or entertainment below with commercial-office suites above, they tend to be successful. He indicated that he visited Concord the other day for a grand opening and that the building had four stories of office space which he believed were residential at one time. He said that this area is surrounded by retail and office uses and is also close to a Bart Station. He inquired whether Commissioner Mueller was recommending spot zoning in the downtown.

Commissioner Mueller clarified that he is suggesting that a two block area in the downtown be looked at and that a specific plan be adopted. He noted that the current CC-R zoning district in place for the downtown, allows commercial-retail with housing or office space above in limited locations.

Commissioner Escobar felt that the process is important, acknowledging that Measure C is also important based on the work done. As the City has not had a lot of development fall under Measure C, the impacts are not known. The question is whether or not what the City wants, collectively as a community, is doable under the standards and criteria, even with the changes. He noted that some individuals believe that it is and that some believe that it would be difficult to achieve a specific plan and/or vision. Therefore, rushing to do something for the sake of satisfying a process or procedure may not get the City where it wants to be. It may not address the questions that Council Member Grzan or Commission Acevedo have in terms of spot zoning. It may be that the issues are to be addressed by structured ordinances. He felt the question is whether or not the downtown was important enough to evaluate or examine from this standpoint. He did not know enough about the suggestion of taking residential development in the downtown outside Measure C, whether it would violate the integrity of Measure C, and the process. It is known that the downtown is different; thus the reason for going through all this work. He felt that you need to get individuals interested and qualified to develop in the downtown. However, he did not believe that this was the ultimate objective.

Council Member Grzan said that what works in other places may not work in Morgan Hill because of demographics, culture, economics, etc. He would like to see our downtown become a destination place, a place that is colorful and lively. If this is what the City and community wants, the downtown may need to be bulldozed over. The downtown could be rebuilt from scratch to build space and a lot of retail to give it the lively destination where individuals would come from all parts of the region to visit Morgan Hill and shop. He was not sure if this is what Morgan Hill wants to be and whether it is viable, considering what will be taking place in Coyote Valley. He was not sure whether the City would draw individuals no matter what it does. Before investing significantly into the downtown, he felt the City needs to know what it will be doing. He does not object to taking a risk, but recommends reducing the risk as much as possible with as much information being provided and studies prepared that would make the downtown work. He inquired whether the Council was willing to take a chance to change things such as Measure C, or excluding the downtown from Measure C. He said that he would look seriously at separating the downtown from Measure C if it can be shown that changes can be made to make it the vital place the community wants.

Chairman Lyle felt that Commissioner Mueller raised a valid point about having a vision. Council Member Grzan addressed risk and how much money the Council wants to pour into the downtown that may not increase the City's return. There is a question about equity. He expressed concern that should the City agree to subsidize one portion of development in the community, will the other portion of the community cry foul when they see that their fees are suddenly higher because they are subsidizing others. His greatest concern is with timing. Even if the Council decides to take the downtown out of Measure C, there is a problem with logistics. It is being stated that development in the downtown is needed now. He noted that an election is a ways off unless the City spends a lot of money for a special election. He said that the Council needs to review the structure before going to an election. Further, you will lose the window period for how soon housing is to develop in the downtown. He stated that he

would like to find a way, for this competition, to try to get a vision for the downtown. He was not sure how the City can ensure that whatever comes forward in this competition would blend with the downtown.

Council Member Sellers clarified that he was not suggesting that this was an either or process. He recommended that the City consider moving forward as there are no downsides to moving forward with the proposed suggestions. He has no doubt that the changes will have some impact. However, if this is all the City does, the City would not be doing enough. If the Governor calls for an election this fall, this may be an opportunity for the City to amend Measure C. He felt that there was a way to proceed with the basics, fairly quickly, because most of the information exists. He agreed that there is always some risk with the suggestions. He noted that it has been 16 years that he has been working on downtown issues with some strides being made, incrementally. He felt the City is at a point where the downtown community may start back paddling fairly quickly. He expressed concern about the PBID that may be teetering. This could be because the downtown businesses are not seeing anything they can hold onto. He indicated that the Downtown Association will be seeing large changes. At the very least, he would support moving forward with the recommended changes to Measure C. However, he felt that bigger steps need to be taken, including the discussion of exempting development from Measure C to try and spur development in the downtown.

Commissioner Benich stated that the changes being suggested merely carries forth what the Downtown Association has already put forth with the adopted Downtown Plan. He felt that the Downtown Plan is a great vision and that individuals are excited about the Plan. The proposed changes will level the playing field; allowing development to start, and test the market. He could not see a reason why the City could not move forward with the recommended changes. With respect to the other ideas raised, such as coming up with a bigger plan, he stated that he would support this, but in parallel. He felt that it was time to do something as the City has been talking about this issue for many years.

Mayor Kennedy concurred with the comments expressed by Commissioner Benich.

Commissioner Mueller stated that the Planning Commission has been talking openly about raising the density in the downtown slightly to make it work better. He did not believe that there is a shared vision for the downtown. He felt the City needs to be the keeper of the shared vision. He recommended that the City detail out the two square blocks and talk to landowners and developers to determine what it would take to move forward with the downtown vision. Once you see the critical mass taking place, especially with the courthouse moving in, adding to what is taking place on Depot Street, will create excitement and activity. It will take the City to state that in order to have a vital downtown, changes need to take place and that a critical mass needs to be provided. He noted that 600,000 square feet of commercial is proposed on Cochrane Road and Tennant Station. He felt that the downtown needs a boost, a shared vision, and a City that is willing to look at what is going on. He stated that with the changes being proposed for Measure C, you could see a case where the downtown allocation can be awarded, south of Dunne Avenue. He felt that there is a way to alter this somewhat but that the City may not be able to prevent it. Having a shared vision and identifying a core will assist in making the downtown a vital place.

Mayor Kennedy noted a suggestion from the Measure C subcommittee is that the City put together a committee and/or a consultant to address Commissioner Mueller's comments. There is also a question as to whether the downtown has the appropriate density. He felt that both of these would require further investigation.

Chairman Lyle felt that the question about the appropriate density is a two step process. He said that you can review the environmental impact report (EIR) in order to determine whether the density can be changed, somewhat, and still fit within the EIR. He stated that it would take a little work to determine how much the density can be increased without violating the EIR. However, should the density need to be higher, the City would need to proceed with the EIR process, noting that it will take a while to go through this process. He felt the City needs to move quickly to where it can without impacting the EIR so that the projects coming in this fall can take advantage of the density. He indicated that there was a project in the downtown that fell out of the Residential Development Control System (RDCS) process because the current density was not sufficient. He felt that the density in the downtown can be increased such that this project would have been viable without proceeding with an EIR.

Planning Manager Rowe said that the Council could direct staff and the planning commission to look into the feasibility of increasing the downtown density without the need to supplement the environmental work that was done for the Downtown Plan. The second step would be to look at the appropriate density range, public facilities, capacity of the streets, etc.

Commissioner Mueller felt that increasing the density to 24 dwelling units per acre would make several projects viable in the downtown. He did not believe that high densities could be built with a three story limitation and that building above three stories was not necessarily the right thing for Morgan Hill. He supported the Council providing direction to have the Commission look at two specific blocks. It was his belief that a specific plan for a two block area in the downtown and modifications to Measure C will allow for things to take place in the downtown.

Council Member Sellers indicated that the Downtown Association has the expertise, inclination, and the desire to provide a preliminary answer to the question of the recommended area and come up with a more specific plan, parcel by parcel and area by area. He would support asking the Downtown Association to return to the Planning Commission with Commissioner Mueller's suggestions as a framework and provide specifics to a recommendation.

Commissioner Mueller agreed that the Downtown Association has to be a part of the process. He felt that the holder of the shared vision would be the key driver.

Mayor Kennedy agreed that the Downtown Association can work on this; returning to the Planning Commission and making their presentation.

Council Member Carr stated that he hears some consensus forming around the table that the City should move forward with the recommended changes to the standards and criteria. The bigger picture is an important one to the Council, but what is of urgency at this time is amending the standards and criteria. He referred to page 7, Schools category. He noted that it is being recommended that the total points

under this category be lowered from 17 to 16 points. He could not understand where the 1 point was lost.

Commissioner Mueller clarified that the points were lowered for the standard State mandated fees by 1. However, two points were added and that the points could be maximized if a developer provided an amenity desired by the School District.

Council Member Carr referred to page 59, award of allotments and unused allocations. He noted that it states that the Planning Commission can award any unused allocations to an ongoing or next in line project(s) in other competition categories.

Commissioner Mueller indicated that award of unused allocations has been in the standards and criteria for a long time.

Chairman Lyle clarified that this language is specific to micro projects.

Council Member Carr inquired whether allotments not used within a specific category, such as micro allotments, can be rolled over into other set aside categories.

Commissioner Mueller stated that the Council provides the Commission direction and latitude in each competition.

Chairman Lyle clarified that unused allocations for the downtown would be carried over.

Council Member Sellers addressed the economic viability of downtown residential projects. He inquired whether it was possible to mold recent improvements in the downtown area and give developers credit in order to move forward with a project (e.g., broaden the definition of the open space category).

Commissioner Mueller said that several changes are being proposed to the standards and criteria to help the downtown develop in the right way. Until applications are submitted for the downtown, the City will not know how successful the amendments will be. The Measure C subcommittee tried to provide a tight nexus such that a project that needed a couple of points can attain them.

Chairman Lyle referred to page 56, item 9. He indicated that this item addresses Council Member Sellers' concerns about granting a developer credit if they are able to fill in a project, and not need to install infrastructures, 2 points can be attained.

Mayor Kennedy referred to the housing needs category. He noted that a minimum passing score of 8 is being recommended. He stated his support of the last sentence that exempts vertical mixed units such that they automatically receive 8 points.

Chairman Lyle said that should the Council wish to exempt vertical units, it should only be for small vertical units.

Commissioner Mueller said that if you exempt BMR units from the downtown, the City will have Housing Element General Plan issues.

Mayor Kennedy said that he would support exempting the downtown from providing either a BMR or \$150,000, initially, as an incentive to get the projects moving forward.

Council Member Sellers noted that in the past 15 years, 100% of the units built in the downtown have been below market rate units.

Chairman Lyle indicated that the Council is considering several proposed changes this evening that may have a major impact on the next set of ABAG housing numbers. He said that the current ABAG numbers state that the City should be providing 91 very low and low market rate units. Should the Council take an aggressive decision on all items being discussed this evening [e.g., exempting the downtown, agreeing to affordable housing developers' request for development (developing 25% market rate units, etc.), and changes made to encourage moderate homes], the ABAG requirements of 91 units become 29 units of very low and low. He felt that this could result in problems. He felt the City needs to be careful on how it proceeds.

Mayor Kennedy did not believe that development in the downtown needs to provide BMR units in the initial competition. Once the City understands what is taking place, this could be changed.

Chairman Lyle said that the Council could: 1) exempt BMR units from the downtown, 2) exempt small projects, or 3) that downtown projects that produce 100% moderate and lower priced housing units will attain some point score.

Council Member Sellers felt that it made sense to entice developers to build in the downtown. Therefore, he would support exempting the requirement of BMR units in the downtown.

Mayor Pro Tempore Tate felt that some credit should be given to a developer who provides all moderate or below market priced housing units.

Mayor Kennedy felt that a developer should be given credit for providing affordable housing units.

Chairman Lyle clarified that the Council could direct that a project could achieve some number of points under the housing needs category if a project proposes moderate priced housing or lower.

Mayor Kennedy stated that he would support Chairman Lyle's clarification.

Commissioner Benich did not recommend the City exclude the higher end housing priced units. He did not want to see the downtown developed as all low or moderate unit housing project(s).

Commissioner Escobar noted that it was being suggested that the City allow for a certain degree of the market to take its place, predicated on what type of project is to develop. If higher density is developed, you will generally tend to see more moderate priced homes constructed.

Commissioner Mueller felt that the City needs to be creative if it wants to get some housing in the downtown that is of a lower value.

Chairman Lyle said that a certain number of points can be granted if a developer provides all moderate rate units and additional points if a developer provides moderate and other income level units.

1.4 Review and Discuss Implications of Expanding the Downtown Area South of Dunne Avenue

Planning Manager Rowe distributed a map depicting the expansion of the downtown area, south of Dunne Avenue. He said that concerns have been expressed that the expansion of the downtown area competition beyond the limits of the Downtown Plan; opens the door for larger parcels. There may be a possibility that the 200 housing units allocated for the downtown by the Council could result in housing projects being approved around the periphery of the Downtown Plan area as opposed to areas in the Downtown Plan.

Commissioner Mueller expressed concern that the units the City would like to see constructed in the core could be built outside of the core area, particularly south of Dunne Avenue. He said the City could review the Orderly & Contiguous section as it relates to the core area and grade a project based on its location to the central part of the core area versus the outer part of the core. However, he was not sure if this would create enough bias. He said that the Planning Commission is concerned that an expanded downtown area may not achieve the units the City wants to see in the downtown.

Council Member Sellers said that this is an issue of timing as it makes sense to develop this area out. It could be that amending the Orderly & Contiguous category could address the issue.

Mayor Kennedy stated his support of Commissioner Mueller's suggestion.

Mayor Pro Tempore Tate indicated that he would agree to amend the Orderly & Contiguous category as long as it is heavily slanted toward the absolute core.

2. Integrating Market Rate and Affordable Housing Units

Director of Community Development Molloy Previsich inquired whether up to 25% market rate units could be allowed as part of an affordable project. She noted that the current criteria for projects competing in the affordable category have to be 100% affordable. Allowing this modification will result in reducing the extent of public dollars needed to subsidize these projects. She inquired whether the City would agree to allow a market rate housing developer to partner with an affordable housing provider, taking some of the affordable housing allocation and pairing them up with a market unit project. This would provide a higher level of affordable housing in a market rate project that would be drawn from two separate housing categories. This may result in building the project out faster.

Mayor Pro Tempore Tate requested an explanation on how a market-affordable housing project would work.

Commissioner Mueller indicated that this is a concept with an outcome proposed. He noted that the affordable housing project located at Central and Monterey Road was built out with no financial assistance from the City. It has 4-5 open market housing units and the rest are 100% affordable units. The allotments for this project were awarded in two different ways and in two different competitions. He said that the profit from the open market units would help subsidize the project. If this is an acceptable concept, he requested that the Council allow the Measure C subcommittee to work out the details.

Mayor Pro Tempore Tate stated that he needs to know the impacts to the open market rate competition before he can state whether he could support the concept.

Commissioner Mueller indicated that he did not know how to respond to Mayor Pro Tempore Tate's question as there may be several ways to accommodate the concept of mixing open market units with affordable projects.

Ms. Molloy Previsich stated that the Council would need to decide whether a developer would need to compete under two separate competitions and that units are drawn from each category. She said that there is a concern that the City does not diminish the total number of affordable units available overall. She said that this would need to be taken into account in deciding how many units are available within each category. The City would need to set up a process where a project could attain units from two categories, or set up a defined process where a developer can draw from one category, even though it is 25% affordable in a market rate project or 25% market rate in an affordable project.

Chairman Lyle said that it would be a trade off. The City would have to state that there are fewer units available for the regular market rate competition, or the City will be even further away from the ABAG numbers.

Ms. Molloy Previsich clarified that under the current eligibility criteria, the City's rule states that a project has to be 100% affordable. She indicated that the Council could consider changing the criteria to stipulate that a project only needs to be 75% affordable and still compete under the affordable housing category.

Council Member Carr stated that up to 25% market rate units should be allowed in an affordable project because it was his belief that it was the right way to build diversity into the community. He felt that the City should be striving to build diversity and that the economic side should come in second to this. However, he expressed concern that this would get the City further away from the ABAG numbers. He expressed concern about closing this gap.

Chairman Lyle stated that there are a lot of hard questions to consider. There is a question as to whether a project that wants to build both market rate and affordable units should compete as two different projects or compete as one project. If they compete as one project and have a housing mix, he did not know how some of the categories would be scored (e.g., open space, amenities). He said that additional language would need to be incorporated on how a mixed housing product would work. He said that the

Council could make the changes that stipulate that 75% of a project be affordable by a non profit agency to compete and be scored accordingly.

Mayor Kennedy recommended that the Council ask the Planning Commission to conduct the work to allow a 75%/25% housing product.

Chairman Lyle did not believe that a non profit and for profit developer project is doable at this time as it is a complicated issue and would take some time to work out.

Mayor Kennedy stated that he agreed with Council Member Carr's position and direction on this matter.

Mayor Pro Tempore Tate stated that he would need to review the implementation recommendation in terms of pros and cons on how to accommodate a housing mix project. He stated that he likes the basic concept.

Chairman Lyle said that the question whether a market rate housing developer is able to partner with a non profit agency is a complicated question, and that this would not be applied to this year's competition. He noted that this year's competition does not really come into play as the allotments are set.

Mayor Kennedy and Mayor Pro Tempore Tate felt that this concept was worth pursuing.

Commissioner Escobar noted that the question is whether the City should conceptually take a look at having a market rate developer work with a non profit agency. He said that the City will need to take a longer look at this.

3. Planning Commission/Planning Division Workplan and Activity items

Director of Community Development Molloy Previsich indicated that the Council reviewed the Planning Commission's/Planning Division's workplan as part of the budget study session. At that study session, the Council stated that it would like the opportunity to talk with the Planning Commission about the workplan. The Planning Commission also wanted to speak with the Council about some of the workplan items, in particular, expectations for the auto dealership strategy and land use near streams and riparian areas.

Land use near streams and riparian areas

Council Member Grzan noted that there are a number of wonderful creeks and streams in the community that the City can take advantage of in terms of recreational/restoration opportunities and making them viable creeks and streams. The question is how you integrate this with development. He has seen the development that occurred on Watsonville Road build a 9-foot high concrete wall along the creekside edge. He felt that development could have integrated into a natural area of habitat. He would like the City to preserve what the City has in place and to get away from the type of development that is occurring in Santa Clara, and other cities to the north, who developed concrete channels, fencing and

concrete walls along creeks and streams. He felt that Morgan Hill is noted for its open space and rural character. He would like to preserve this and expand upon this. He stated that ordinances in place and the General Plan are not restrictive enough as they suggest to a developer that certain actions be considered. He would like the ordinance strengthened and require developers to preserve creeks and streams, have them integrated into the community as viable recreational opportunities, and as alternative borders to get from one neighborhood to another.

Mayor Kennedy noted that the Santa Clara Valley Water District has good planning tools that are available. He agreed that the City needs to protect its riparian habitat, creeks, streams and trails.

Ms. Molloy Previsich informed the Council that the City is participating in a county-wide Santa Clara Valley Water District collaborative effort. She said that a draft report will be ready to present to all local agencies in approximately two months.

Commissioner Acevedo noted that Concord has a waterway on the east side of Highway 680 that has a running path along the side of the waterway as well as other flood canals running into it. He felt that it would be great to incorporate a running/biking path along waterways.

Auto Dealer Strategy and Walnut Grove PUD

City Manager Tewes said that a few weeks ago, the Community and Economic Development Committee made a report and recommendation to the Council that was adopted. It directed the City Manager and staff to work with property owners in the area to achieve a certain number of objectives. Also, that staff look at other opportunities for auto dealers in the community at other locations. He indicated that staff has developed the background and is ready to make the contacts directed by the Council.

Council Member Sellers said that Community and Economic Development Committee found that there was enough common ground. The Committee is working with staff in a direct and low key manner. He said that the Council seems to be going away from the concept of having other auto dealerships and so did the market on one side of the freeway. He felt that the items the City put into place resulted in a good job and will minimize impacts to the community. He stated that the Committee is close to conclusion and that the item is close to taking to the Planning Commission and then to the City Council.

Mayor Pro Tempore Tate clarified that he has not backed away from the auto dealership strategy.

City Manager Tewes stated that the strategy is to encourage more car dealers in Morgan Hill. The next step is to determine how many car dealers are desired and their location. Where there had been emphasis on the Walnut Grove area, it was suggested that the City look at other locations, including east of the freeway, for most of the remaining dealerships.

Mayor Kennedy and Mayor Pro Tempore Tate stated that they were not supportive of excluding other potential auto dealerships.

Mayor Kennedy said that a potential auto dealer should not be ruled out on the west side of Highway 101.

Council Member Sellers stated that the Committee wanted to be responsive to the market.

Mayor Kennedy opened the floor to public comment.

Rocke Garcia stated that he has an important piece of property located on Third Street. He recommended that the Council look at San Diego and how they turned their downtown around. He felt that the City needs to allow a developer to work with an architect to create what will work for the betterment of the City. If the Redevelopment Agency stays in affect, and 50 units were approved that sold at \$500,000 per unit, this would add to the City's coffer \$2.5 million in 10 years. He recommended the installation of street lights so that people feel safe going to the downtown. He felt that use of public funds could be used to help create the place for downtown. He indicated that he will design a project that the City will be proud of, but felt that the City needs to do its part as well.

Ryan Volpe, representing South Valley Developers, addressed the open market allowance for the affordable housing competition. He stated that this is a time sensitivity issue as the affordable housing competition takes place in October 2005. He requested the Council consider the partnership of a market rate and affordable housing project for this competition. He addressed South Valley Developers proposed master planned community to be maintained by one association. Should the project receive 64 allocations under this competition for a 256 unit project, he would have to compete four times to build out the project in a 10-12 year horizon. Each time the project competes, a new design will need to be submitted to modify according to adjustments made to Measure C. He stated that the housing price range may no longer be moderate at the next competition. This would be a four sale project versus a rental project. Regarding land costs, he stated that South Valley Developers was able to obtain the property under a different zoning and take it through a rezoning process. They are offering it to South County Housing at a price that makes sense for them. If they are allowed to offer 25% open market rate units, they would be able to subsidize the project themselves. In future competitions, land costs may not allow for these types of partnerships to exist. He said that approving this concept will push South Valley Developers' project through which will open the allocations in future competitions for various other projects.

Betsy McGovern, representing South County Housing, stated that she has experience in developing in Morgan Hill as she is the project manager for Morgan Station and the Viale project. The Morgan Station project is a unique project as it is a mixed income housing project and that this project was developed without public subsidy. The Viale project is a smaller project and that it has taken over \$1 million of public subsidy to develop this project. She encouraged the Council to address this issue; if possible this competitive round, as it would give South County Housing the ability to develop 100 units of housing, 75% to be affordable. She indicated that there is a question whether they can include 25% market rate units. She said that constructing a 100% affordable housing project is not feasible.

Mayor Kennedy inquired whether it would be possible to address the requests being made in this competition.

Ms. Molloy Previsich did not believe that there was anything that would preclude this portion of the project from applying under the affordable competition.

Mayor Kennedy noted that the City may not have the criteria in place for this competition to allow this concept.

Chairman Lyle said that in order to come up with a general scheme for any possible combination of projects will take some time. Should the Council wish to consider this particular project, the Council may be able to come up with an accommodation based on what the developer is willing to do. He noted that this project is proposing to include 30% low income housing units and that this will impact the ABAG numbers.

Commissioner Mueller said that the existing proposal for South County Housing's project, as submitted, is that every unit in the project would be affordable and would count toward the Housing Element. If the project stays affordable, you will be trading off deed restricted projects and you would be taking 75 units out the affordable housing built over the next several years. He noted that the 100% affordable units are a separate allocation. He felt that there are things about this particular project that makes it even more complicated.

Ms. Molloy Previsich felt that there are pros and cons and some trade offs. However, it sounds as though the Council is willing to adjust the definition of an affordable housing to allow 25% of the units to be market rate units. In the analysis, the City can review the tradeoffs associated with a mixed housing project.

Chairman Lyle noted that this project is already partially committed with a master plan identified and amenities based upon certain units being built. Now, it is being stated that 100 units are to be taken out of the project and retrofit the project. He felt that this would be a tricky proposition.

Mayor Pro Tempore Tate requested that the Measure C subcommittee look at this issue to determine whether this mix can be considered.

Chairman Lyle inquired whether the City is willing to loose 70 low income units associated with this project.

Mayor Kennedy requested that the Measure C subcommittee, the Planning Commission and the Council take a look at this concept and determine what it really means before making a decision.

Ms. Molloy Previsich said that the next step would be for the City to make a change to the regulations to allow the 75% affordable and that the advocate needs to specifically identify what amendments or modifications to the already approved project would be applied. She said that the Measure C subcommittee could analyze the proposal and that the Council can make a decision.

Action: *By consensus, the Council provided the above stated directions.*

FUTURE COUNCIL-INITIATED AGENDA ITEMS

No items were identified.

ADJOURNMENT

There being no further business, Mayor Kennedy adjourned the meeting at 9:08 p.m.

MINUTES RECORDED AND PREPARED BY:

IRMA TORREZ, CITY CLERK